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SUBJECT: Refugee Housing Scandal: No Investigative Progress

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11. (SBU) Summary and Comment. Over the past year the Croatian Office for Combating Corruption and Organized Crime (USKOK) made only marginal progress in investigating thousands of potential cases of illegal sales of ethnic Serb houses to the Croatian State Agency for Refugee Property (APN). Intermediary agencies in SAM, representing ethnic Serb refugee owners, allegedly forged documents and sold houses to APN without owners' knowledge. One USG-supported NGO has gathered documents and evidence on about 20 cases and forwarded them to USKOK for further investigation. USKOK concluded those cases constituted fraud but have not determined that corruption occurred. About 700 individuals have approached the NGO for assistance; a total of 70 cases are active in the judicial system. Recently, the Municipal Court in Nova Gradiska decided in favor one ethnic Serb woman who received her house back. Another two similar verdicts were reached in lower courts.

12. (SBU) USKOK's investigation of APN appears half-hearted at best, underlined by the fact that they have not analyzed the one APN computer that was confiscated. The scandal has surfaced and faded from the public eye several times since 2001 with no clear resolution. Prosecutors have rejected all out-of-court settlements despite a previous commitment to accept them. Local and international observers agree that a fraud scheme of this scope would have been impossible without the complicity of many individuals, including those in state administration. If proven, the scandal would incur significant cost to the GOC, both financial and political. One newspaper estimated that if half the 6,000 homes were sold illegally, damages could cost the GOC \$150 million. USKOK - a specially-formed public prosecutors office - and state prosecutors - both represent and investigate the GOC and are in an awkward role: they may face pressure to minimize state losses, rather than pursue state compensation for owners. Post will continue to raise this issue in its regular meetings with the State Prosecutor. Recent press reports have brought the scandal to light again, but so far USKOK has been unable or unwilling to seriously delve into this problem. End Summary and Comment.

Inconclusive Investigation, Despite Evidence

13. (SBU) In February 2005, the then-acting head of USKOK, Dalibor Cvitan, told us he expected solid results from his investigation of APN employees within months. But over a year later there are no indictments. Sasa Lalic, Head of the Association for Civic Initiatives and Ethnic Relations,

ACIER and Zarko Puhovski, Head of the Croatian Helsinki Committee, believe the problem is not lack of evidence, but a lack of will to prosecute. One clerk's computer was seized (based on ACIER information) and investigated with no conclusive results. Cvitan told us he is investigating those cases brought to him by ACIER, but will not open investigations on others. He also told Puhovski and Lalic that USKOK's goal is not to prosecute individuals but to provide relief to victims.

¶4. (SBU) Approximately 6,000 homes were sold using powers of attorney, but the scope of the problem remains unknown as USKOK is not investigating all cases but rather those that the Vukovar-based NGO brings to them. Many owners may be unaware that their homes were sold, and the cumbersome process of obtaining documents remains a barrier. Apart from APN officials and the GOC's office for refugee issues (ODPR), intermediary agencies and one Croatia bank may have been involved in the profit network. The head of one intermediary agency was convicted in Novi Sad last year, but there have been no convictions in Croatia.

¶5. (SBU) Nor does USKOK intend to prosecute APN employees, even though the agency was intimately involved in all property sales. There are currently about 30 cases proceeding through the court system. An additional 40 individuals submitted their cases to prosecutors and are requesting an out of court settlement. So far, local prosecutors have rejected all of the 70 or so offers, forcing plaintiffs to open private lawsuits that cost between \$1,700 and \$ 3,000. In addition to the active cases, ACIER is now processing about 700 other requests. Based on one of their lawsuits, the Municipal Court in Nova Gradiska reached the first valid verdict returning a house to a woman who now lives in Serbia. Two other appealable

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verdicts in favor of plaintiffs have been reached elsewhere in Croatia.

NGO: Trying to Overcome Many Obstacles

¶6. (SBU) Lalic is optimistic that more lawsuits may follow as he is able to obtain documentation. Post has provided funds through its Democracy Commission to facilitate research and case preparation; OSCE Zagreb and U.S. Embassy Belgrade are providing similar support. He remains pessimistic about the Prosecutors' will to investigate APN. Earlier reports in the media indicated that APN was involved in providing data needed to forge documents and that it probably split profits with SAM intermediary agencies.

¶7. (SBU) Lalic complained that USKOK has been obstructing the work of his NGO by refusing to allow access to APN files on thousands of contracts done through intermediaries, which are potentially fraudulent. Potential plaintiffs are instead asked to go to local land registry offices and courts; however, those offices do not have some data that would best reveal fraud and the process of obtaining documents is cumbersome. Compounding the problem, prosecutors did not follow through on their promise made last year to grant out-of-court settlements to all well-substantiated cases in order to ease the situation for generally impoverished owners. Post has requested reports from the State Prosecutor on the investigation's progress and will continue to do so.

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